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**Issue Date: 23 April 2003**

**Case No.: 2003-AIR-12**

**In the Matter of**

**Coleen L. Powers,  
Complainant**

**v.**

**Pinnacle Airlines, Inc.,  
Respondent**

**ORDER TO SHOW CAUSE**

This matter is currently scheduled for hearing on May 28, 2003, in Memphis, Tennessee. On April 4, 2003, I issued an Order directing the Complainant to submit a response to the Respondent's Motion to Compel Plaintiff to Respond to Pinnacle's Requests for Production of Documents and Interrogatories no later than Friday, April 11, 2003. On April 11, 2003, the Complainant filed her "Response to Pinnacle's Motion to Compel Re: Respondents' First Request for Production of Documents and Her Urgent Motion to Reconsider Court's Refusal to Grant Complainants' Motion to Compel Re: Ms. Powers' First Request for Production of Documents," and her "Request to Reset Trial Date."<sup>1</sup> On April 18, 2003, the Respondent submitted its "(1) Response to Complainant's April 11, 2003 Motions and (2) Motion for Sanctions."

In her pleadings, the Complainant has once again requested that I reconsider my earlier Order denying her Motion to Compel discovery. The Complainant has raised no new arguments or factual allegations that would support her request, and essentially repeats the arguments she made in her first motion to reconsider. I have reviewed my previous Order, as well as Complainant's arguments, and I find no basis for reconsideration. Thus, her motion is denied.

In response to my April 4, 2003 Order directing her to respond to the Respondent's motion to compel, the Complainant for the most part simply repeats portions of *her* earlier motion to compel, which was denied. In the portion that actually responds to my Order, the Complainant states that she should not have to respond to the Respondent's discovery requests because the

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<sup>1</sup> This pleading was submitted by telefax, despite the fact that I have not authorized filing by this method; the hard copy was received on April 16, 2003.

Respondent has “unclean hands.” The Complainant argues that the Respondent did not exhaust good faith efforts to cooperate in discovery, but rushed to file a motion to compel, as contrasted with her documented efforts to cooperate in discovery. This is an inaccurate and misleading claim. As I noted in my March 19, 2003 Order, despite the fact that the Respondent provided a box of documents responsive to the Complainant’s discovery requests, neither the Complainant nor her counsel bothered to review them, but instead filed a motion to compel, claiming, as she does in her instant motion, that the Respondent had not provided “one single piece of paper” to the Complainant. As I noted in my earlier Order, this statement is demonstrably false.

The Respondent, in its Motion to Compel, set out its efforts to obtain responses to its discovery requests. The Complainant does not dispute these claims, but complains that “a few telephone messages does not or [sic] complete their duty.” Clearly, the Respondent’s efforts did not produce a response from the Complainant, and the Respondent had no choice but to file its motion to compel. But even if the Complainant is not satisfied with the Respondent’s efforts to persuade her to answer its discovery, she is still obligated to respond to the Respondent’s discovery requests. On the one hand, the Complainant complains that the Respondent did not exhaust good faith efforts to cooperate, yet she *still* has not provided her complete answers to the Respondent’s interrogatories, and she has not provided any response to the Respondent’s document requests. Nor did the Complainant respond to the Respondent’s motion to compel responses to its discovery requests until I directed her to do so.

The Complainant disagrees with my conclusion, as reflected in my March 19, 2003 Order denying her discovery motions, that there is no basis for an Order to compel the Respondent to respond to her discovery requests. As I noted in that Order:

In sum, the Complainant’s motions are a mishmash of generalizations and misleading statements that do not shed any light on which specific interrogatories and document requests are in dispute, the Respondent’s response, and why the Complainant believes that the response is inadequate. Indeed, despite the Complainant’s claims of “stonewalling” and “massive resistance,” it appears that the Respondent has made substantial efforts to comply with the Complainant’s discovery requests, and I find her claims to be inaccurate and deliberately misleading. As the Complainant has not articulated specific discovery disputes that require resolution, there is no basis for an order to compel.

Thus, despite the fact that I denied the Complainant’s motion to compel, as well as her first motion to reconsider that denial, Complainant takes the position that she will not respond to the Respondent’s discovery requests until I change my mind and amend my “erroneous orders,” and direct the Respondent to engage in a simultaneous exchange of discovery responses. As I have repeatedly stated, the Complainant has not established that Respondent’s discovery responses are deficient. The Complainant’s refusal to comply with discovery unless I change my mind and grant her motion demonstrates contempt for the authority of this Court. The Complainant is required to cooperate in discovery, regardless of her disagreement with my

previous orders.<sup>2</sup>

The Complainant has also filed a Request to Reset Trial Date. In response to the Complainant's earlier Motion for Speedy Trial and Motion to Reschedule Trial to an Earlier Date, I noted that neither the Court nor counsel for the Respondent had been able to contact Claimant's counsel to discuss dates for a continuance of the hearing, and that the Complainant had not articulated any reason why her hearing could not take place on the Wednesday following the Memorial Day weekend. In her instant motion, the Complainant again asks that I reset the trial date, claiming that she was not consulted, and that she was not required to bare her private life and report confidential information about her plans for the holiday. The Complainant refers to the hearing date as a "cramdown" date, and complains that the Court has called the Complainant and her counsel inarticulate. She refers to my Order as insulting, inaccurate, ill-advised, and pejorative, and declines to reveal her schedule or her counsel's schedule. Despite the fact that she previously asked for an earlier hearing date, the Complainant complains that the current hearing date would force her to prepare over the Memorial Day weekend. The motion reflects that Complainant's counsel has plans to attend a lecture at Georgetown University and other events, and that he "declines to miss another GU reunion on account of a DOL judge." Finally, the Complainant indicates that she may file a peer review complaint, as well as a complaint with the DOL IG. The Complainant alleges that I have been "distant and unreasonable," due to my "proximity" to Chief Judge Vittone, Associate Chief Judge Burke, and Todd R. Smyth, and that I have failed to treated the Complainant with "one shred of dignity," while treating the Respondent "like exalted creatures." The Complainant states that "The Court has no reason to mistreat Ms. Powers because the current Chief Judge dislikes protected activity regarding DOL's desuetude." The Complainant also suggests that I recuse myself, on the grounds that I am in the same office as the Chief Judge, "who has repeatedly vilified and filed complaints about protected activity by Ms. Powers counsel, violating First Amendment and whistleblower rights."

The Respondent has requested that the Complainant's complaint be dismissed because of her failure to comply with the Court's order to provide discovery, as well as her filing of legally frivolous, dilatory, redundant, misleading, and inaccurate pleadings with the Court. In my April 4, 2003 Order, I reminded the Complainant that her failure to cooperate in discovery could result in sanctions, including the dismissal of her claim. It appears that the Complainant still has not responded to the Respondent's discovery requests, nor has she shown a valid reason for her

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<sup>2</sup> The Complainant also continues to refer to "Respondents," and to complain that Northwest has not entered an appearance or responded to her discovery requests. Once again, I remind the Complainant that **the only Respondent in this matter is Pinnacle. Nor is there a Sarbanes-Oxley or environmental whistleblower claim in this matter.** The Complainant's repeated references thereto, despite my Order dismissing the Sarbanes-Oxley claim, and my repeated reminders that there is no environmental whistleblower claim, and that Northwest is not a party in this claim, demonstrate a total disregard for the judicial process, and contempt for my Orders directing otherwise.

refusal to do so. In addition, as set out above, she has made numerous statements attacking the integrity of the Court and threatening to file disciplinary requests if her demands are not met.

### **CONCLUSION**

Based on the foregoing, IT IS HEREBY ORDERED THAT:

1. The Complainant show cause as to why her complaint should not be dismissed for her failure to cooperate in discovery, as well as her conduct in filing pleadings with this Court. The Complainant shall have until close of business on May 2, 2003 to submit her response, which must be received by that time, and which may be submitted by telefax, if it is also submitted to counsel for the Respondent in that manner.
2. The Complainant's second Motion to Reconsider my March 19, 2003 Order denying her discovery motions is DENIED.
3. The Complainant's request for a prehearing conference is DENIED.
4. The Complainant's request to reset the trial date will be addressed after resolution of discovery issues.

SO ORDERED.

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LINDA S. CHAPMAN  
Administrative Law Judge